

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	
)	Group Art Unit: 3728
Anthony Jones)	
)	Examiner: Anthony D. Stashick
Serial No.: 10/010,123)	
)	
Filed: December 6, 2001)	
)	
Title: THERAPEUTIC SHOE)	
)	
Attorney's Docket No.: 101)	

Mail Stop: Patent Application (Continuation)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRELIMINARY AMENDMENT

Sir:

In response to the Office Action, dated December 16, 2003, with a request for an extension of a one month period of time, please amend the above-identified application as indicated below.

INTRODUCTORY COMMENTS

Applicant is filing this preliminary amendment, which amends independent claims 1 and 9 to point out that the Therapeutic Shoe is a unitary flexible member comprised of an upper side wall portion and a sole portion adapted to receive a therapeutic solution for treatment of a user's foot therein.

It is respectfully pointed out that the Examiner's prior art, namely the § 103 rejection of claims 1 and 9 over Marcellus in view of Giannetti does not teach or disclose a unitary flexible

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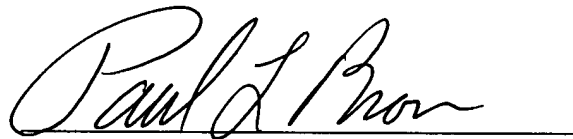
member. Instead, Marcellus and Giannetti teach at least a double ply shoe type structure which, in the case of Marcellus, requires liquid to be positioned between the plies, and in the case of Giannetti, the two plies are inner and outer liners sealed together with the inner liner 38 provided with a plurality of projections thereon.

Additionally, Palmer teaches only the suggestion of a boot type structure having a plurality of strips extending downwardly from the upper boot portion to apply therapeutic drug to the foot. Similarly, Basa describes only a shoe type structure having a separate upper garter piece 25 secured to the upper ankle portion of the boot.

Because the remaining claims in the application are each dependent upon independent claims 1 and 9, respectively, it is respectfully submitted that independent claims 1 and 9, and the dependent claims therefrom are in condition for allowance because the prior art does not remotely teach or suggest the unique claimed shoe for applying a therapeutic solution and for the treatment of a user's foot.

Respectfully submitted,

Date: April 16, 2004



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